

Senate File 2024 - Introduced

SENATE FILE _____
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BOLKCOM

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the recycling of empty beverage containers by
2 increasing the reimbursement amount paid by distributors,
3 eliminating refusal of empty containers by dealers,
4 eliminating departmental approval of redemption centers, and
5 establishing civil penalties.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 5317SS 82
8 tw/rj/5

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1 1 Section 1. Section 455C.2, subsection 2, Code 2007, is
1 2 amended to read as follows:
1 3 2. In addition to the refund value provided in subsection
1 4 ~~1 of this section~~, a dealer, ~~or a person operating a~~
1 5 redemption center who redeems empty beverage containers, ~~or a~~
1 6 dealer agent shall be reimbursed by the distributor required
1 7 to accept the empty beverage containers ~~an amount which is one~~
1 8 ~~cent in the amount of two cents~~ per container. A dealer,
1 9 dealer agent, or person operating a redemption center may
1 10 compact empty metal beverage containers with the approval of
1 11 the distributor required to accept the containers.
1 12 Sec. 2. Section 455C.4, subsection 2, Code 2007, is
1 13 amended by striking the subsection.
1 14 Sec. 3. Section 455C.7, Code 2007, is amended to read as
1 15 follows:
1 16 455C.7 UNAPPROVED REDEMPTION CENTERS.
1 17 Any person may establish a redemption center ~~which has not~~
1 18 ~~been approved by the department~~, at which a consumer may
1 19 return empty beverage containers and receive payment of the
1 20 refund value of the beverage containers. The establishment of
1 21 ~~an unapproved~~ a redemption center shall not relieve any dealer
1 22 from the responsibility of redeeming any empty beverage
1 23 containers of the kind and brand sold by the dealer.
1 24 Sec. 4. NEW SECTION. 455C.11 SCHEDULE OF PENALTIES ==
1 25 VIOLATIONS.
1 26 1. PENALTY ASSESSMENT. The commission shall establish by
1 27 rule a schedule for the administrative assessment of civil
1 28 penalties. The schedule shall provide procedures and criteria
1 29 for assessing penalties of not more than ten thousand dollars
1 30 for violations of this chapter or for violations of the rules,
1 31 permits, or orders adopted or issued under this chapter.
1 32 Violations not fitting within the schedule, or violations
1 33 which the commission determines should be referred to the
1 34 attorney general for legal action, shall not be governed by
1 35 the schedule established under this subsection. When adopting
2 1 the schedule and when proposing or assessing a penalty, the
2 2 commission and the director shall consider the following:
2 3 a. The costs saved, or likely to be saved, by a violator's
2 4 noncompliance.
2 5 b. The gravity of the violation.
2 6 c. The degree of culpability of the violator.
2 7 d. The maximum penalty authorized for a violation of this
2 8 chapter.
2 9 e. Other relevant factors.
2 10 2. SCREENING OF VIOLATIONS. In establishing the schedule
2 11 of violations, the commission shall provide by rule a
2 12 procedure for screening alleged violations in order to
2 13 determine which cases may be appropriate for the
2 14 administrative assessment of penalties. However, the

2 15 screening procedure shall not limit the discretion of the
2 16 commission to refer any case to the attorney general for legal
2 17 action.

2 18 3. CONTESTED CASE HEARINGS. Penalties may be
2 19 administratively assessed under this section only after an
2 20 opportunity for a contested case hearing. The contested case
2 21 hearing may be combined with a hearing on the merits of the
2 22 alleged violation.

2 23 4. JUDICIAL REVIEW. When a person against whom a penalty
2 24 is assessed under this section seeks timely judicial review of
2 25 an order imposing the penalty, as provided under chapter 17A,
2 26 the order is not final for the purposes of this section until
2 27 all judicial review processes are completed. Additional
2 28 judicial review shall not be sought after the order becomes
2 29 final.

2 30 5. PAYMENT OF PENALTIES AND INTEREST.

2 31 a. A penalty assessed under this section shall be paid
2 32 within thirty days of the date the order assessing the penalty
2 33 becomes final.

2 34 b. A person who fails to timely pay a penalty assessed by
2 35 a final order of the department shall pay, in addition to the
3 1 penalty, interest at the rate of one and one-half percent of
3 2 the unpaid balance of the assessed penalty for each month, or
3 3 part of a month, that the penalty remains unpaid.

3 4 c. The attorney general shall institute, at the request of
3 5 the department, summary proceedings to recover the penalty and
3 6 any accrued interest.

3 7 d. All penalties assessed by the department under this
3 8 section and interest on the penalties shall be deposited in
3 9 the general fund of the state.

3 10 6. This section does not require the commission or the
3 11 director to pursue an administrative remedy before seeking a
3 12 remedy in the courts of this state.

3 13 Sec. 5. Section 455C.12, Code 2007, is amended by adding
3 14 the following new subsection:

3 15 NEW SUBSECTION. 6. The state shall be precluded from
3 16 bringing a criminal action against a person under this chapter
3 17 if the department has initiated a civil enforcement proceeding
3 18 against the person pursuant to section 455C.11.

3 19 Sec. 6. Sections 455C.6 and 455C.10, Code 2007, are
3 20 repealed.

3 21 EXPLANATION

3 22 This bill relates to the recycling of empty beverage
3 23 containers.

3 24 The bill increases to 2 cents per container the amount
3 25 received by a dealer or a person operating a redemption
3 26 center. The redemption amount, commonly referred to as a
3 27 handling fee, is paid by the distributor who collects the
3 28 beverage containers from the dealer or the operator of the
3 29 redemption center.

3 30 Under current law, a dealer may refuse to accept empty
3 31 beverage containers if that dealer's place of business and the
3 32 kind of containers are included in an order of the department
3 33 of natural resources approving a redemption center. The bill
3 34 eliminates the ability of a dealer to refuse to accept
3 35 containers in this instance.

4 1 The bill eliminates the approval of redemption centers by
4 2 the department and makes other related changes necessary to do
4 3 so.

4 4 The bill requires the department to establish a schedule of
4 5 civil penalties and provides for the administrative assessment
4 6 of penalties up to \$10,000 for violations of the Code chapter
4 7 or any rules, permits, or orders adopted or issued under it.
4 8 Violations not fitting within the schedule, or violations
4 9 referred to the attorney general, are not governed by the
4 10 schedule. The bill also provides factors to be considered in
4 11 the adoption of the schedule.

4 12 The bill requires the environmental protection commission
4 13 to adopt by rule a screening procedure that determines which
4 14 violations to refer to the attorney general and which
4 15 violations are more appropriate for administrative assessment.
4 16 The bill requires the department to provide a contested case
4 17 hearing before assessing any penalties. The bill also
4 18 provides for judicial review of administrative penalties and
4 19 requires the assessment of interest on penalties not timely
4 20 paid.

4 21 Finally, the bill precludes the department from seeking
4 22 criminal penalties if it has initiated a civil enforcement
4 23 proceeding under the Code chapter.

